

JAN 02 2008

Amendment After Final Rejection
Serial No. 10/776,718

Docket 5000-1-513

REMARKS

Applicant respectfully requests reconsideration and withdrawal of all grounds of rejection in the Office Action in light of the foregoing amendments and the following remarks. Claims 1-6 remain pending in the application. Claims 4 and 6 have been rewritten into independent form including all the recitations of their base claim and any intervening claims.

Claims 1-3 stand rejected under 35 U.S.C § 102(b) as allegedly being anticipated by Masashi *et al.* (U.S. 5,574,714) ("Masashi"). Claims 4-6 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Masashi in view of Doh *et al.* (U.S. 6,911,644 B2) ("Doh"). Applicant respectfully traverses this ground of rejection for the reasons indicated herein below.

Applicant respectfully submits that the present application and Doh are commonly owned and assigned at the time the present invention was made. Accordingly, as it is stated in the Office Action that Doh would only constitute art under 35 U.S.C. §102(e), then under the provisions of 35 U.S.C. §103(c), Doh is disqualified as prior art against the claims of the present application. For at least this reason, the rejection of claims 4-6 under 35 U.S.C. §103(a) is overcome, and claims 4-6 are in condition for allowance. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

Claim 1 has been amended to recite in part that the clipper outputs "a signal difference only when the output signal of the variable gain amplifier is higher than or equal to the preset signal V_{cut} in amplitude, and wherein said clipper clips the output

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signal of the variable gain amplifier only when the output signal is lower than said preset signal V_{cut} ," support is found in the specification at least at page 6, lines 18-22).

Applicant respectfully submits that claim 1 of the present invention is distinguishable from Masashi at least for the reason that the AGC apparatus recites in part a clipper clips the signal only if it is lower than the level V_{cut} and only outputs a signal higher than V_{cut} .

Applicant also respectfully disagrees that a level shift circuit 11 of Masashi anticipates the AGC apparatus having a clipper as recited in claim 1. Applicant respectfully submits that the assumption in the Office Action that a level shift circuit does some adjustment that may be considered "as a form of clipping" is improperly reading a limitation into Masashi that is not disclosed, and a person of ordinary skill in the art would not inherently or otherwise attribute level shifting as a form of clipping. Accordingly, claim 1 is not anticipated by Masashi.

In contrast to the clipper recited in present claim 1, Masashi discloses at column 3, lines 39-47 that "when the bottom value is recognized as being larger than the reference value d, the bottom value comparing circuit issues a shift signal having a high level. In such a case, the shift circuit 8 shifts the level of the EFM signals to reduce it, thereby reducing the bottom value. Conversely, when the bottom value is smaller than the reference value c, the shift signal has a low level, and the bottom value is level-shifted to become larger."

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In other words, the bottom value comparing circuit 15 in Masashi does not clip the signal and only use a signal level higher than V_{cut} for generating an AGC adjustment control signal, as does the clipper circuit in the presently claimed invention.

According to the United States Court of Appeals for the Federal Circuit, a claim is anticipated only if a single prior art reference sets forth each and every feature recited in a claim (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)), including the features in functional language (*In re Schreiber*, 128 F.3d 1473, 1478, 44 USPQ.2d 1429 (Fed. Cir. 1997) (citing *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971))).

As Masashi fails to set forth a clipper as recited in claim 1, Masashi fails to anticipate claim 1. Reconsideration and withdrawal of this ground of rejection are respectfully requested.

In addition, Applicant respectfully submits that claims 2 and 3 are patentable at least because claim 1 is patentable, and because of a separate basis for patentability. Masashi fails to disclose, teach, suggest, or provide any motivation such that claims 2 and 3 would have been obvious to a person of ordinary skill in the art. Individual consideration of each of the claims on their own merits is respectfully requested.

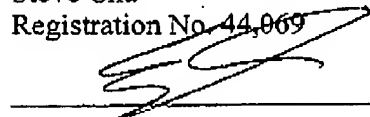
For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

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Should the Examiner deem that there are any issues which may be best resolved by telephone communication, please contact Applicant's undersigned Attorney at the number listed below.

Respectfully submitted,
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